

U.S. Department of Justice

United States Attorney  
Southern District of New York

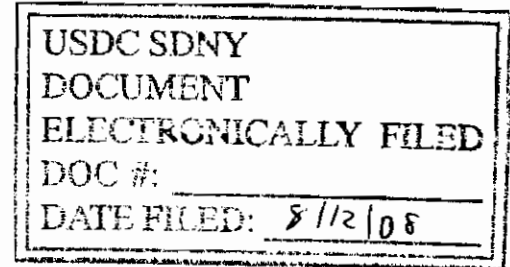
86 Chambers Street, 3<sup>rd</sup> Floor  
New York, New York 10007

August 11, 2008

**MEMO ENDORSED**

**BY HAND**

Honorable Denise L. Cote  
United States District Judge  
United States District Court  
500 Pearl Street, Room 1040  
New York, New York 10007



Re: Langert v. United States of America, et al.  
08 Civ. 4405 (DLC) (DF)

Dear Judge Cote:

I am the Special Assistant United States Attorney with principal responsibility for defending the U.S. Government in the above-referenced negligence action. I write to the Court to respectfully request a two-week extension of the Government's time to answer the Amended Complaint, *i.e.* until August 25, 2008. Plaintiff's counsel consents to this extension. This is the Government's second request for an extension.

Plaintiff initially filed an action in the Supreme Court of the State of New York, Dutchess County on November 9, 2007. On May 9, 2008, this action was removed to federal court. The Government and plaintiff subsequently signed a Stipulation and Order of Substitution of the United States as Defendant for Amy Tocco, M.D., David Walker, M.D., Hudson River Health Care, Inc. and Dismissal of the Action as Against the United States (the "Stipulation"), which was so ordered by the Court on June 3, 2008. On June 20, 2008, plaintiff amended his complaint to bring the United States back into this litigation. In addition to naming the United States, the Amended Complaint names Hudson River HealthCare, Inc., Amy Tocco, M.D., and David Walker, M.D. as defendants despite the fact that the Stipulation already dismissed the claims against these individual defendants with prejudice. On July 9, 2008, Your Honor granted the Government's request for a 30-day extension until August 11, 2008, to answer or otherwise respond to the Amended Complaint.

Counsel for plaintiff has agreed to file a Notice of Voluntary Dismissal, with prejudice, of the claims in the Amended Complaint as against Hudson River HealthCare, Inc., Amy Tocco, M.D., and David Walker, M.D., pursuant to Rule 41(a)(1). As soon as plaintiff files this Notice, and his counsel has indicated that he will file such Notice shortly, the Government will promptly answer the Amended Complaint on behalf of the United States.

*Granted. There shall be no  
further extension.*

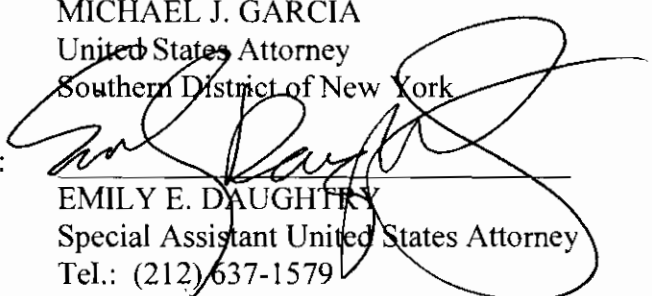
*[Signature]*  
Denise Cote  
August 12, 2008

I apologize for the last minute nature of this request, and thank the Court for its consideration.

Respectfully,

MICHAEL J. GARCIA  
United States Attorney  
Southern District of New York

By:



EMILY E. DAUGHTRY  
Special Assistant United States Attorney  
Tel.: (212) 637-1579  
Fax : (212) 637-2717  
E-mail: emily.daughtry@usdoj.gov

cc (by Federal Express):

Jonathan C. Reiter, Esq.  
Robert Levey, Esq.  
Law Firm of Jonathan C. Reiter, Esq.  
350 Fifth Ave., Suite 2811  
New York, New York 10118